

 <div style="text-align: center;"> <b>STATE OF ALASKA</b>  <b>DEPARTMENT OF TRANSPORTATION</b>  <b>AND PUBLIC FACILITIES</b> </div> <div style="text-align: center; font-size: 1.5em; font-weight: bold;">Policy and Procedure</div>		POLICY AND PROCEDURE NUMBER <div style="text-align: center; font-weight: bold;">10.02.013</div>	PAGE <div style="text-align: center;">1 of 3</div>
		EFFECTIVE DATE <div style="text-align: center;">February 28, 2001</div>	
SUBJECT <div style="text-align: center; font-weight: bold;">The Public Interest Finding</div>		SUPERSEDES <div style="text-align: center;">DPDR 05.01.070</div>	DATED <div style="text-align: center;">5/25/94</div>
TITLE <div style="text-align: center; font-weight: bold;">Procurement and Property</div>	CHAPTER <div style="text-align: center; font-weight: bold;">Contracting</div>	APPROVED BY	

## PURPOSE

To provide guidance and establish uniform criteria for developing and submitting the Public Interest Findings (PIF) as required by State or Federal regulations.

## POLICY

It is the policy that a Public Interest Finding (PIF) is the typical document and permanent record used to satisfy a *'findings-of-fact'* and *"State's best interest"* requirement on certain types of construction related work. PIFs are generally used when there is a request for departure from standard procurement or contracting procedures, and for:

1. Specification of patented or proprietary items (23 CFR 635.411)
2. Use of State owned or State furnished material (23 CFR 635.407 & 2 AAC 12.760)
3. Use of publicly owned equipment (23 CFR 635.106)
4. Advertisement for bids without Right-Of-Occupancy an Use (23 CFR 635.309)
5. High cost sign or marking material (23 CFR 655.606)
6. Force account materials, labor or equipment (23 CFR 635.201-205 & AS 19.10.170 - special procedure for the PIF and it approval apply - see also DPDR 10.02.012 titled, Force Account Construction)

### A PIF is not required when:

1. the funding source is from a municipality or other entity, and is not reimbursable with State or Federal monies
2. the work to be performed is that of maintenance on a non-capital project
3. a utility agreement is being established and there are minor quantities of materials and supplies and propriety products that are routinely used in a

utility's operation which are essential for the maintenance of the system (23 CFR 645.117(e)).

## PROCEDURE

There is no standard form for submitting a Public Interest Finding. However, the PIF:

1. must clearly show that the best interest of the public and the State will be achieved. This is accomplished by describing any cost effectiveness and efficiency to be realized.
2. must be routed through the Division/Regional Director (and the Director must sign the Approval Recommended portion of the PIF) to the DOT&PF Chief Contracts Officer for approval.
3. supporting documentation and the decision of either the Director or the Headquarters Chief Contractors Officer must be maintained in the project file.

Note: A "State's best interest" determination does not always require a Public Interest Finding, but a Public Interest Finding always requires a proving of "State's best interest."

## DEFINITIONS

### **Construction or a derivative of the term construction -**

means construction, reconstruction, alteration, improvement or major repair.

### **Cost Effective -**

means the efficient of labor, equipment, materials and supplies to assure the lowest overall cost.

### **Department -**

means the Department of Transportation and Public Facilities (DOT&PF)

### **Maintenance -**

means the preservation of each type of highway, roadside structure and facility as nearly as possible in its original condition as constructed, or as subsequently improved, and the operation of highway facilities and services to provide satisfactory and safe highways. (AS 19.45.001(10))

### **State's best interest -**

There is no single or comprehensive definition established by statute or code that fits the term *"in the state's best interest"* for every occasion. In **2 AAC 12.415**, within the context of Single Source procurements (and which works for this document), is the definition: *"...a determination that is reasonable under the circumstances and is neither arbitrary, capricious, or prompted by corruption."*

The terms, *"best interest," "best interest of the public," "best interest of the state," "best interest of the department"* and, *"advantageous to the state"* (or similar sentence structure should be considered synonymous terms.

## **AUTHORITY**

### **State Statute**

AS 19.10.170(b), AS 35.15.010(b)

### **United States Code**

23 USC 112

### **Code of Federal Regulations**

23 CFR 635.119, 23 CFR 635.205, 23 CFR 635.309, 23 CFR 645.117(e)

### **Federal Aid Improvements Handbook**

Chapter 12, Section 4, Article 1231

### **Other Reference Sources**

Alaska Construction Manual, Section 2.08.03 - Supplemental Agreements

## **IMPLEMENTATION RESPONSIBILITY**

DOT&PF Chief Contracts Officer

## **DISTRIBUTION**

All holders of the Department of Transportation & Public Facilities Policy and Procedures Manual.